

GIBSON DUNN

MEMO ENDORSED

July 5, 2018

The Honorable Lewis A. Kaplan  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street, New York, NY 10007-1312

Re: *Chevron Corp. v. Donziger, et al.*, Case No. 11 Civ. 0691 (LAK)

Dear Judge Kaplan:

I respectfully write as counsel for Plaintiff Chevron Corporation (“Chevron”), pursuant to Your Honor’s directive at the June 28, 2018 hearing. Chevron submits that further briefing is warranted as to the implications of Donziger’s retention agreements and other agreements among entities with interests in the Ecuadorian judgment, particularly in light of Donziger’s production of a November 1, 2017 agreement between himself and the Frente de Defensa de la Amazonia (“FDA”) for the first time at the conclusion of the June 28th hearing.

The newly-produced November 1, 2017 retention agreement between Donziger and the FDA (Ex. A) is dated just five days before (and obviously in anticipation of) the Elliott meeting. But Chevron never had an opportunity to brief the significance of the agreement, or question Donziger about it, because Donziger intentionally withheld it until after the June 28th hearing, in violation of this Court’s discovery order. *See* Dkt. 1989-1 at 12–13 (Request No. 19 re: Donziger’s interest in the Ecuadorian judgment); Dkt. 2009 at 1 n.1, 3 (requiring production responsive to Request No. 19 by June 15). Nor did he admit to its existence during his deposition. *See* Donziger Dep. Tr. at 29, 60, 62 (attached as Ex. B). And earlier today, Donziger produced for the first time yet another FDA agreement that he had withheld—dated January 29, 2016, regarding investment solicitations. *See* Ex. C. Donziger says he obtained it *from Ecuador*.

The November 1, 2017 retention agreement purports to grant Donziger for the first time a *personal* 6.3% interest in any “funds recovered in connection with the *AGUINDA* CASE or the

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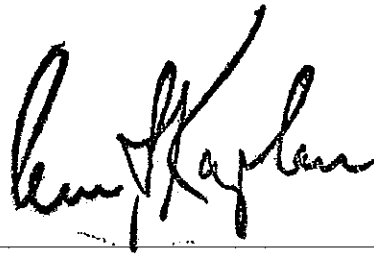
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Chevron's motion is granted. Any further submission shall be filed no later than July 24, 2018. Should Donziger wish to respond, he may do so provided his response is filed no later than August 7, 2018. Any reply shall be filed no later than August 14, 2018.

Memoranda by either side shall be double spaced and shall not exceed 12 pages. Any further evidentiary material shall be submitted in the form of double spaced affidavits or declarations to which appropriate exhibits may be attached. The Court will reject any papers that do not conform to these requirements.

SO ORDERED.

Dated: July 10, 2018

A handwritten signature in black ink, appearing to read "Lewis A. Kaplan", is written over a horizontal line.

Lewis A. Kaplan  
United States District Judge